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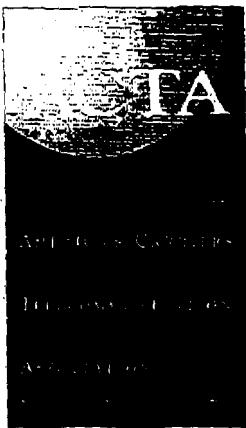
DATE: July 29, 1996
TO: The Honorable Rachelle B. Chong & Mr. Don Gonzalez
FIRM: Federal Communications Commission
FAX: (202) 418-2820
FROM: Charles H. Helein, General Counsel, ACTA
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July 29, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

**Re: NTIA's Eleventh Hour Contact on the Implementation of the Local
Competition Provisions in the Telecommunications Act of 1996
CC Docket No. 96-98**

Dear Chairman Hundt:

This will address the recent letter of Larry Irving dated this date concerning the NTIA's proposal that the Commission adopt a "transition charge" designed to recover those portion of access charges that fund universal service programs." This "transition charge" would be added to the relevant costs charged by incumbent LECs for unbundled network elements purchased by IXCs in order to originate and terminate long distance service.

As General Counsel for America's Carriers Telecommunication Association ("ACTA"), the lack of elementary fairness involved with this eleventh hour communique on a matter of grave concern to all competitive IXCs cannot go unchallenged. What is particularly disturbing is not only has the Commission apparently embarked on adopting a formula affecting how unbundled network elements will now be priced without complying with the notice and comment procedures required by law, but has been encouraged to do so by a sister agency after all other comments from interested parties has been truncated by application of the "Sunshine" laws.

Further compounding the problem, the suggestion ignores critical facts and problems that could have been debated and considered if proper notice and comment procedures had been followed, as required by law. The most critical of these facts is that the Commission has outstanding inquiries on the universal service funding mechanism in which it has been documented that the present universal service funding mechanism is fraught with abuses which have made it a bloated "pork barrel" for the monopoly ILECs. Now, as is understood, the Commission is to give official sanction to allowing this bloated and abusive mechanism to be passed on as an additional charge for unbundled network elements.

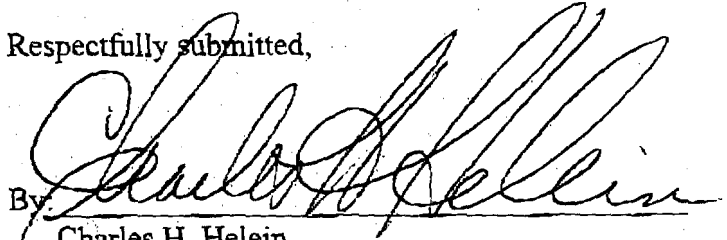
ACTA

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All the more upsetting is the fact that this last minute undertaking will be carried out without so much as the usual lip service to the need for an analysis required by the Regulatory Flexibility Act. The impact on small carriers will, once again, be ignored in the name of providing even more government-sponsored subsidies to the most entrenched monopolists in the telecommunications industry.

While it may be understood that this situation will be defended as having arisen due in part to the severely limited timeframe accorded the Commission to put in place regulations to comply with the 1996 Act, that excuse portends little hope that the Commission will achieve its goals of creating a competitive marketplace. Once again, in place of fact finding, actual numbers on costs and cost allocations, analysis thereof and open debate, the Commission has allowed the self-interests of powerful parties to gain competitive and economic advantage behind the smoke screen of protecting "universal service."

Respectfully submitted,

By: 
Charles H. Helein,
General Counsel

cc: James H. Quello, Commissioner
Rachelle B. Chong, Commissioner
Susan Ness, Commissioner
Larry Irving, NTIA
ACTA Board